The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHAEL JOHN COSS,
DAVID L. MAJETTE
AND RONALD L. SHARP

Appeal No. 2006-1106
Application No. 08/927,382

ON BRIEF

Before KRASS, JERRY SMITH and RUGGIERO, Administrative Patent Judges.

RUGGIERO, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal from the final rejection of claims 1-26, which are all of the claims pending in this application.

The disclosed invention relates to a system and method for implementing a computer network firewall by applying a security policy represented by a set of access rules for a given communication packet.

Claim 1 is illustrative of the invention and reads as follows:

1. A method for validating a packet in a computer network, comprising the steps of:

deriving a session key for said packet;

selecting at least one of a plurality of security policies as a function of the session key, wherein a security policy comprises multiple rules; and

using the selected at least one of the security policies in validating said packet.

The Examiner relies on the following prior art:

Shwed (Shwed '668)	5,606,668	Feb. 25, 1997
Shwed et al. (Shwed '726)	5,835,726	Nov. 10, 1998 (filed Jun. 17, 1996)

Claim 1-26, all of the appealed claims, stand finally rejected under 35 U.S.C. § 102(e) as being anticipated by Shwed '726. Claims 1-26 also stand finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Shwed '668.

Rather than reiterate the arguments of Appellants and the Examiner, reference is made to the Briefs[1], the final Office action, and Answer for the respective details.

---

[1] The Appeal Brief was filed July 14, 2005 in response to the final Office action mailed December 21, 2004. In response to the Examiner's Answer mailed October 6, 2005, a Reply Brief was filed December 9, 2005, which was acknowledged and entered by the Examiner as indicated in the communication mailed January 18, 2006.

OPINION

We have carefully considered the subject matter on appeal, the rejections advanced by the Examiner, and the evidence of anticipation and obviousness relied upon by the Examiner as support for the rejections. We have, likewise, reviewed and taken into consideration, in reaching our decision, Appellants' arguments set forth in the Briefs along with the Examiner's rationale in support of the rejections and arguments in rebuttal set forth in the Examiner's Answer.

It is our view, after consideration of the record before us, that the Shwed '726 reference does not fully meet the invention as set forth in claims 1-26. With respect to the Examiner's 35 U.S.C. § 103(a) rejection based on Shwed '668, we are also of the view that the evidence relied upon and the level of skill in the particular art would not have suggested to one of ordinary skill in the art the invention as recited in claims 1-26. Accordingly, we reverse.

We consider first the rejection of claims 1-26 under 35 U.S.C. § 102(e) as being anticipated by Shwed '726. Anticipation is established only when a single prior art reference discloses, expressly or under the principles of

inherency, each and every element of a claimed invention as well as disclosing structure which is capable of performing the recited functional limitations. RCA Corp. v. Applied Digital Data Systems, Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir.); cert. dismissed, 468 U.S. 1228 (1984); W.L. Gore and Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

With respect to the appealed independent claims 1, 17, and 22, the Examiner attempts to read the various limitations on the disclosure of Shwed '726. In particular, the Examiner (final Office action, pages 3 and 4) points to various portions of columns 2, 3, and 14 of the disclosure of Shwed '726.

Appellants' arguments in response assert that the Examiner has not shown how each of the claimed features are present in the disclosure of Shwed '726 so as to establish a case of anticipation. Appellants' arguments (Brief, pages 4-7; Reply Brief, pages 2 and 3) primarily focus on the contention that, in contrast to the claimed invention, Shwed '726 does not provide for the selection of "at least one of a plurality of security policies" for validating a data packet "wherein a security policy comprises multiple rules."

After reviewing the Shwed '726 reference in light of the arguments of record, we are in general agreement with Appellants' position as stated in the Briefs. In particular, we agree with Appellants that Shwed '726, at best, provides for the placement of a given security policy into a packet filter at a network node, i.e., there is no selection from among plural security policies dependent on a session key as claimed. While we agree with the Examiner that the claim language "selecting at least one" requires only the selection of one policy, the entirety of this clause in the claims requires that this selection be from "a plurality of security policies," a feature we find absent from the disclosure of Shwed '726.

In view of the above discussion, since all of the claim limitations are not present in the disclosure of Shwed '726, we do not sustain the Examiner's 35 U.S.C. § 102(e) rejection of independent claims 1, 17, and 22, nor of claims 2-7, 18-21, and 23-26 dependent thereon.

We also do not sustain the Examiner's 35 U.S.C. § 102(e) rejection, based on Shwed '726, of independent claims 8 and 12 and their dependent claims 9-11 and 13-15. These claims set forth the previously discussed security policy selection feature

using slightly different terminology. These claims require the designation of a plurality of independent security policies and the determination of which of the security policies is appropriate for a particular data packet, a feature missing from Shed '726 as discussed supra.

Turning to a consideration of the Examiner's 35 U.S.C. § 102(e) rejection, based on Shwed '726, of independent claim 16, we sustain this rejection as well. Independent claim 16 is directed to the feature of, in a plural administrator/plural domain environment, permitting only the administrator for a given domain to modify security policy rules for that particular domain. While we recognize that the Examiner (Answer, page 8) has cited several passages from Shwed '726 which perhaps suggest that plural administrators for plural domains exist in the system of Shwed '726, we find no disclosure which would satisfy the specific administrator rule modification restriction set forth in claim 16.

Lastly, we also do not sustain the Examiner's separate 35 U.S.C. § 103(a) rejection of appealed claims 1-26 based on Shwed '668. We agree with Appellants (Brief, pages 9 and 10; Reply Brief, pages 4 and 5) that Shwed '668 suffers from the same deficiencies as previously discussed with regard to Shwed '726.

As pointed out by Appellants, Shwed '668 merely applies a given security policy set of rules, as programmed into a packet filter at a system node by an administrator, to validate an incoming data packet. In other words, there is no selection of a security policy from a plurality of security policies as function of a session key as set forth in appealed claims 1-15 and 17-26. In addition, similar to the above-discussed deficiency in Shwed 726, we find no disclosure in Shwed '668 which would satisfy the claimed administrator rule modification restriction of appealed claim 16.

In summary, we have not sustained either of the Examiner's rejections of the claims on appeal. Therefore, the decision of the Examiner rejecting claims 1-26 is reversed.

REVERSED

ERROL A. KRASS)
Administrative Patent Judge)
)
)
JERRY SMITH) BOARD OF PATENT
Administrative Patent Judge) APPEALS
) AND INTERFERENCES
)
)
)
JOSEPH F. RUGGIERO)
Administrative Patent Judge)

JFR/kis

Appeal No. 2006-1106
Application No. 08/927,382

JOSEPH B. RYAN
RYAN AND MASON, L.L.P.
90 FOREST AVENUE
LOCUTS VALLEY, NY 11560